



**FILED**

Apr 18 2008, 9:41 am

*Beverly L. Smith*

**CLERK**

of the supreme court,  
court of appeals and  
tax court

ATTORNEYS FOR APPELLEE:

**WILLIAM J. COHEN**  
**ELIZABETH A. BELLIN**  
Cohen Law Offices  
Elkhart, Indiana

**IN THE  
COURT OF APPEALS OF INDIANA**

BARRY GEYER, )  
 )  
 Appellant, )  
 )  
 vs. ) No. 20A03-0712-CV-595  
 )  
 TERRY (GEYER) SERIE, )  
 )  
 Appellee. )

APPEAL FROM THE ELKHART SUPERIOR COURT  
The Honorable George W. Biddlecome, Judge  
Cause No. 20D03-0607-DR-71

**April 18, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAILEY, Judge**

## **Case Summary**

Appellant Barry Geyer (“Father”) appeals the denial of his request for reimbursement of college expenses paid on behalf of Daric Geyer (“Daric”), the youngest child of his marriage to Appellee Terry Geyer Serie (“Mother”). We affirm.

## **Issue**

Father presents the sole issue of whether the trial court abused its discretion by refusing to order Mother to reimburse Father for tuition he paid to Indiana Wesleyan University.

## **Facts and Procedural History**

Mother and Father are divorced. Daric lived with Father during his last two years of high school. After his graduation from high school, Daric moved from Father’s home into Mother’s home. Father and Daric did not personally communicate thereafter. Mother and Father jointly paid Daric’s educational expenses at Ivy Tech College for several trimesters. Daric then applied to Indiana Wesleyan University to seek a bachelor’s degree in preparation for serving as a youth minister. Mother moved for an additional educational support order and the trial court required Father to contribute \$8,266.00 annually<sup>1</sup> toward the cost of Daric’s college education at Indiana Wesleyan University and to pay child support to Mother in the amount of \$40.00 per week. Father appealed.

On appeal, this Court addressed Father’s contention that Daric had repudiated his

---

<sup>1</sup> The tuition was calculated as if Daric were attending a public university instead of a private one.

relationship with Father:

In some circumstances, an adult child's repudiation of his or her parent will obviate a parent's obligation to pay college expenses. Norris v. Pethe, 833 N.E.2d 1024, 1033 (Ind. Ct. App. 2005). Parental repudiation has been defined as "a complete refusal to participate in a relationship with his or her parent." Id.

Here, the evidence points solely to a conclusion that Daric has refused to participate in a relationship with Father since he left Father's home. The birthday card, as well as Father's payment of several semesters of tuition at Ivy Tech College, went unacknowledged. When Mother testified about the Father/son relationship, she stated, "They don't have one." (Tr. 19.) Father testified to an absence of communication with Daric for a two-year period, a contention not disputed by Mother. Daric's uncle, Tim Geyer, testified that he invited Daric to his home to discuss the father/son rift. In his view, Daric showed "very little interest" in reconciliation and made no "verbal expression of interest." (Tr. 43.)

Mother, Father, and Daric's uncle were in agreement that the estrangement was mutual. Indeed, the trial court found "Daric, [sic] and both of his parents, all share in the blame for Daric's estrangement from his father." (Appellee's App. 15.) Nevertheless, it is undisputed that during the two years of the estrangement, Father fulfilled his obligations of paying child support and tuition at Ivy Tech College. After fulfilling those obligations with no corresponding benefit of a relationship, he is asked to pay tuition for three additional years, with every expectation that his adult child will continue to refuse to engage in a father/son relationship during that time.

The trial court's order speaks in terms of "estrangement" rather than "repudiation." There is overwhelming, undisputed evidence of record to support the finding of "estrangement." However, that finding is inconsistent with the conclusion that Father must continue to pay college tuition. The order is clearly erroneous, and Father's obligation to pay college expenses for Daric is obviated.

Geyer v. Geyer, No. 20A03-0610-CV-268, slip op. at 3-6 (Ind. Ct. App. April 11, 2007).

Sometime before the April 11, 2007 decision, Father had paid tuition to Indiana Wesleyan University. On June 28, 2007, Father filed a motion for return of child support and college tuition. Father requested that Mother be required to reimburse child support paid after Daric turned twenty-one and also to reimburse Father for tuition paid directly

to Indiana Wesleyan University. At a hearing held on September 7, 2007, the trial court ordered Mother to reimburse Father for child support overage. On November 9, 2007, the trial court declined to order Mother to reimburse Father for tuition paid to Indiana Wesleyan University. Father now appeals.

### **Discussion and Decision**

Father argues that the trial court should have exercised its inherent power to grant equitable relief by ordering Mother to reimburse him for tuition he paid to Indiana Wesleyan University during the pendency of the former appeal.

The trial court necessarily has broad discretion in matters regarding child support and college expenses, and we review the trial court's order for clear error, considering only the evidence and reasonable inferences favorable to the judgment. Gilbert v. Gilbert, 777 N.E.2d 785, 790 (Ind. Ct. App. 2002).

In rare cases, one parent has been ordered to reimburse the other parent for college expenses already paid. See e.g., Best v. Best, 470 N.E.2d 84 (Ind. Ct. App. 1984) (restitution was appropriate where mother fraudulently induced her ex-husband to overpay for their daughter's college expenses) and Topolski v. Topolski, 742 N.E.2d 991 (Ind. Ct. App. 2001) (mother ordered to pay father where father had paid virtually all educational expenses and mother was in contempt of court for failing to pay her court-ordered share). Such circumstances as fraud or contempt of court are not present here.

Here, the trial court concluded that Mother was not required to reimburse Father for tuition payment made to the university because (1) Father failed to move to stay the

execution of the trial court's judgment pursuant to Indiana Trial Rule 62(B)(5)<sup>2</sup> or to post bond to stay upon appeal pursuant to subsection (D);<sup>3</sup> and (2) Mother did not mislead Father or reap a direct financial benefit to herself. The evidence of record supports the trial court's refusal to order reimbursement upon equitable grounds. Father has demonstrated no clear error.

Affirmed.

FRIEDLANDER, J., and KIRSCH, J., concur.

---

<sup>2</sup> Indiana Trial Rule 62(B)(5) provides: "In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the filing and disposition of ... an appeal."

<sup>3</sup> Subsection (D) entitled "Stay upon appeal" provides in relevant part: "Enforcement of a judgment or appealable interlocutory order will be suspended during an appeal upon the giving of an adequate appeal bond with approved sureties or an irrevocable letter of credit from a financial institution approved in all respects by the court."